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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/773,799 | 02/01/2001 | James William McGowan | 3 | 9536 |

22046 7590 07/19/2004

LUCENT TECHNOLOGIES INC.
DOCKET ADMINISTRATOR
101 CRAWFORDS CORNER ROAD - ROOM 3J-219
HOLMDEL, NJ 07733

EXAMINER

FOX, JAMAL A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2664

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,799

Applicant(s)

MCGOWAN, JAMES WILLIAM

Examiner

Jamal A Fox

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 15-23 and 29-45 is/are allowed.
- 6) ☒ Claim(s) 6, 7, 11, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 8-10, 12-14 and 26-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2 and 3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6, 7, 11, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamoi et al. (U.S. Patent No. 5,280,483).

Referring to claim 6, Kamoi et al. discloses a method for use in a packet server (Fig. 8 and respective portions of the spec.), the method comprising the steps of:

determining a burst ratio (burst ratio R_b, col. 4 lines 50-63 and respective portions of the spec.) for the received packet stream; and
changing the processing for the received packet stream as a function (col. 5 lines 40-45 and col. 16 lines 5-10) of the determined burst ratio, but does not explicitly teach of receiving a stream of packets. However, receiving a call is disclosed in (col. 2 line 63-col. 3 line 2). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included receiving a stream of packets to the invention of Kamoi et al. because in applying the technology of a packet switching system to ATM communication, one approach would be to accept a call when the sum of peak bands of data described by calls can pass through the communication path.

Referring to claim 7, Kamoi et al. discloses the method of claim 6 wherein the changing step alters a priority (priority, col. 10 lines 27-49 and col. 11 lines 4-40) level for the received packet stream.

Referring to claim 11, Kamoi et al. discloses a method for use in a packet server, the method comprising the steps of:

determining a burst ratio (burst ratio R_b , col. 4 lines 50-63 and respective portions of the spec.) for the received packet stream; and associating the determined burst ratio as a figure of merit (col. 5 lines 40-45 and col. 16 lines 5-10) for the packet server for use in traffic planning, but does not explicitly teach of receiving a stream of packets. However, receiving a call is disclosed in (col. 2 line 63-col. 3 line 2).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included receiving a stream of packets to the invention of Kamoi et al. because in applying the technology of a packet switching system to ATM communication, one approach would be to accept a call when the sum of peak bands of data described by calls can pass through the communication path.

Referring to claim 24, Kamoi et al. discloses a packet server comprising:
a receiver (Fig. 8 ref. sign 40 and respective portions of the spec.);
a processor (Fig. 8 ref. sign 47 and respective portions of the spec.) (a) determining a burst ratio for the received packet stream, and (b) changing the processing for the received packet stream as a function (col. 5 lines 40-45 and col. 16 lines 5-10) of the determined burst ratio, but does not explicitly teach of receiving a stream of packets. However, receiving a call is disclosed in (col. 2 line 63-col. 3 line 2). Therefore it would

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have been obvious to one having ordinary skill in the art at the time the invention was made to have included receiving a stream of packets to the invention of Kamoi et al. because in applying the technology of a packet switching system to ATM communication, one approach would be to accept a call when the sum of peak bands of data described by calls can pass through the communication path.

Referring to claim 25, Kamoi et al. discloses the apparatus of claim 24 wherein the processor changes the processing by altering a priority (priority, col. 10 lines 27-49 and col. 11 lines 4-40) level for the received packet stream.

Allowable Subject Matter

3. Claims 1-5, 15-23 and 29-45 are allowed.
4. Claims 8-10, 12-14 and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 305-3988, (for formal communications intended for entry)

Or:

(703) 305-3988 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. 22202, Sixth Floor (Receptionist).


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (703) 305-5741. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (703) 305-4366. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

J.A.F.

Jamal A. Fox


WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600